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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**
10

11 MONICA LEWIS,

12 Plaintiff,

13 v.

14 U.S. DEPT. H.U.D., ET AL.,

15 Defendants.

Case No. 10cv1193 BTM(WVG)

**ORDER GRANTING MOTION TO TO
PROCEED IN FORMA PAUPERIS;
DISMISSING COMPLAINT FOR
FAILURE TO STATE A CLAIM**

16
17 On June 3, 2010, Plaintiff filed a Complaint and a Motion to Proceed In Forma
18 Pauperis ("IFP Motion"). For the reasons discussed below, the IFP Motion is granted, the
19 Complaint is dismissed with leave to amend.

20 **DISCUSSION**

21 I. Motion to Proceed IFP

22 Upon review of Plaintiff's affidavit in support of her IFP Motion, the Court finds that
23 Plaintiff has made a sufficient showing of inability to pay the filing fees required to prosecute
24 this action. Accordingly, Plaintiff's IFP Motion is **GRANTED**.
25

26 II. Failure to State a Claim

27 Although the Court will allow Plaintiff to proceed IFP, Plaintiff's Complaint must be
28 dismissed for failure to state a claim. The Court is under a continuing duty to dismiss an IFP

1 case whenever the Court determines that the action “fails to state a claim on which relief may
2 be granted.” 28 U.S.C. § 1915(e)(2)(B)(ii).

3 Plaintiff’s Complaint lists the defendants and alleges that they engaged in
4 discrimination, harassment, and other wrongs. The Complaint makes some incoherent
5 factual allegations regarding a racist conspiracy. However, these factual allegations are
6 insufficient to establish a plausible legal claim against any of the defendants.

7 Plaintiff also submits a declaration in support of her Complaint. Based upon this
8 declaration, it appears that Plaintiff’s Complaint is based on events that happened in San
9 Rafael, Marin County, California. Plaintiff believes her housing rights were violated when an
10 apartment manager evicted her because of her race. She also alleges that the San
11 Francisco Office of HUD is guilty of negligence and racial discrimination because they
12 claimed to have “lost” 3 of Plaintiff’s complaints of housing discrimination. Plaintiff also
13 makes vague allegations about other defendants violating her rights and allegations
14 regarding being placed on a Ku Klux Klan website by someone and word being spread by
15 White Supremacists to keep her from ever obtaining housing.

16 It is possible that Plaintiff wishes to bring a Fair Housing Act claim against the person
17 or persons responsible for evicting her. However, it is unclear whether Plaintiff named this
18 person(s) as defendants. (The Court also notes that the limitations period for such an action
19 is 2 years after the occurrence of the alleged discriminatory housing practice - 42 U.S.C. §
20 3613(a)(1)(A).)

21 Plaintiff’s claim of negligence against HUD is governed by the Federal Tort Claims
22 Act, 28 U.S.C. § 2671, which authorizes suits against the United States for money damages
23 for personal injuries resulting from the negligent or wrongful acts or omissions of the United
24 States’ employees acting within the scope of their employment. A tort claim against the
25 United States is “forever barred unless it is presented in writing to the appropriate Federal
26 agency within two years after such claim accrues.” 28 U.S.C. § 2401(b). There is no
27 indication that Plaintiff filed a tort claim with HUD within the prescribed time period.

28 Plaintiff also accuses HUD of racial discrimination. However, Plaintiff does not

1 present any facts, other than the loss of the three complaints, in support of such a claim.

2 For the reasons discussed above, Plaintiff's Complaint fails to state a cognizable legal
3 claim against defendants. Therefore, Plaintiff's Complaint is dismissed. However, the Court
4 grants Plaintiff leave to file an amended complaint curing the deficiencies noted above.

5 The amended complaint should include a short and plain statement of the grounds for
6 this Court's jurisdiction, a short and plain statement of the legal claim(s) being asserted, and
7 a demand for judgment for the relief sought. Fed. R. Civ. P. 8(a). With respect to the legal
8 claims, Plaintiff should specify who did what, when the events occurred, and how Plaintiff
9 was harmed by the alleged wrongful conduct.

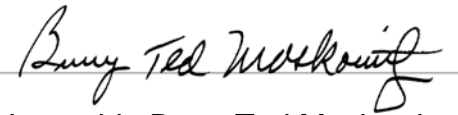
10 Regarding the form of the amended complaint, Plaintiff must abide by Rule 10 of the
11 Federal Rules of Civil Procedure. Among other things, Rule 10 requires that a party "state
12 its claims in numbered paragraphs, each limited as far as practicable to a single set of
13 circumstances." Fed. R. Civ. P. 10(b).

14
15 **CONCLUSION**

16 Plaintiff's Motion to Proceed IFP is **GRANTED**. However, Plaintiff's Complaint is
17 **DISMISSED** without prejudice for failure to state a claim upon which relief may be granted.
18 Plaintiff may file a First Amended Complaint on or before **July 6, 2010**. If Plaintiff fails to do
19 so, the Court shall close this case. Plaintiff did not provide the Court with any address,
20 telephone number, or other contact information. It is Plaintiff's responsibility to check in with
21 the Court to determine whether there has been any developments in her case.

22 **IT IS SO ORDERED.**

23 DATED: June 8, 2010

24 
25 Honorable Barry Ted Moskowitz
26 United States District Judge
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